

Appl. No.: 09/502,627  
Amdt. dated August 14, 2007  
Reply to Office Action of May 25, 2007

### **REMARKS/ARGUMENTS**

With this Amendment, Applicant amends claims 10 and 12-17 and adds new claim 21. No new matter is added. Therefore, claims 1, 3-8, 10 and 12-17 and 21 are all the claims currently pending in the application. Based on the foregoing amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of the claims.

#### **I. Objection of the Specification**

The Examiner objected to the specification because the Abstract of the Disclosure recited "A method and system for comprehensive remote servicing of media program information is disclosed." (See pg. 2 of the Office Action) The Examiner points out that MPEP § 608.01(b) states that "[t]he language should ... avoid using phrases which can be implied, such as, "This disclosure concerns," "The disclosure defined by this invention," "This disclosure describes," etc." Applicant herein amends the Abstract of the Disclosure and submits that the amendments obviate the objection. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the objection to the Abstract of the Disclosure. Additionally, Applicant notes that MPEP § 608.01(b) provides that the "heading[s] "Abstract" or "Abstract of the Disclosure" are proper headings.

#### **II. Priority Claims to Provisional Application**

The Examiner objected to the claim of priority to provisional applications 60/120,207, 60/119,762, 60/120,209, 60/120,208, 60/156,817 and 60/120,206 allegedly because the same priority claim should be made in the specification, the bibliography, the Oath/Declaration. (See pg. 3 of the Office Action) Applicant submits herewith an Application Data Sheet enclosed herewith in compliance with 37 C.F.R. § 1.76 and MPEP § 601.05, which guides the Examiner in such matters. Applicant points out that MPEP § 601.05(d)(1)(2) provides that "[f]or inconsistencies between information that is supplied by both an application data sheet under this section and other documents," [t]he *latest submitted* information will govern notwithstanding whether supplied by an application data sheet, ... the specification, ... or by a § 1.63 or § 1.67 oath or declaration ..." (emphasis added) As such, Applicant submits that the claim to domestic priority is governed by the Application Data Sheet submitted herewith. As such, Applicant

Appl. No.: 09/502,627  
Amdt. dated August 14, 2007  
Reply to Office Action of May 25, 2007

respectfully requests the Examiner to reconsider and withdraw the objection to the claims to domestic priority.

### **III. Rejection of Claims 10 and 12-17 Under 35 U.S.C. § 101**

Claims 10 and 12-17 stand rejected under 35 U.S.C. § 101, as being allegedly directed to non-statutory subject matter. (See pgs. 3-5 of the Office Action). In particular, the Examiner states that “[c]laim[s] 10 and 12-17 recite a ‘computer readable medium’ which as defined in the ... specification includes transmission medias such as coaxial cables, copper wire and fiber optic. (See pgs. 4-5 of the Office Action) The Examiner further states that the specification indicates that the “transmission media can take the form of acoustic or light waves ...” and posits that claims 10 and 12-17 “recite nothing but the physical characteristics of a form of energy ... are directed to non-statutory subject matter.” (See *id.*)

Applicant herein amends claims 10 and 12-17 and submits that the amendments to these claims overcomes the § 101 rejection. Applicant disagrees with the Examiner’s characterization of the specification. At least page 18, lines 14-21 of the specification clearly describes an exemplary non-limiting embodiment of a computer system 500 for comprehensive remote servicing of media programs which “is provided by computer system 500 in response to processor 504 executing ... one or more instructions contained in main memory 506. The specification further explains that the “instructions may be read into main memory 506 from another computer-readable medium, such as storage device 510.”

Further, at least pg. 19, lines 1-2 of the specification explains that “computer-readable medium ... refers to any medium that participates in providing instructions to processor 504 for execution. (See also pg. 19, lines 16-17 of the specification). At least page 19, lines 10-15 lists several examples of computer-readable medium and at least page 20, lines 21-26 explains that the “computer system 500 can send ... and receive ... program code, through the network(s), network link 520 and communication interface 518. Moreover, page 20, lines 21-26 of the specification explains that “server 530 might transmit a requested code for an application program through ... local network 522 and communication interface 518” and FIG. 5 clearly shows that the host computer 524 can communicate with the computer system 500.

Based on at least the foregoing, claims 10 and 12-17 do not simply recite nonstatutory

Appl. No.: 09/502,627  
Amdt. dated August 14, 2007  
Reply to Office Action of May 25, 2007

natural phenomena, as contended by the Examiner. Applicant submits that amended claims 10 and 12-17 indeed recite statutory subject matter. Indeed, claim 10 has been amended to recite "A computer program product for providing encoded media content over a network, the computer program product comprising at least one computer-readable storage medium having computer-readable program code portions stored therein, the computer-readable program code portions comprising:" executable portions. MPEP § 2106, I., which guides the Examiner in such matters, provides that "a claimed computer-readable medium encoded with *a data structure* defines structural and functional interrelationships between the data structure and the computer software and *hardware components* which permit the data structure's functionality to be realized, and *is thus statutory.*" (emphasis added) Applicant submits that amended claims 10 and 12-17 comply with the mandate set forth by MPEP § 2106, I. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 101 rejection of claims 10 and 12-17.

#### IV. New Claims

Applicant has added new claim 21, in order to more fully cover various aspects of Applicant's invention as disclosed in the specification. Applicant notes that new claim 21 contains features that are analogous to, though not necessarily coextensive with, the features recited in claim 1, which on pg. 5 of the Office Action the Examiner indicates contains patentable subject matter. As such, Applicant submits that new claim 21 is patentable at least for reasons analogous to those provided by the Examiner on pg. 5 of the Office Action. Support for new claim 21 may be found at least on pg. 18, lines 14-21, pg. 19, lines 16-17, pg. 20, lines 21-26 of the specification and FIG. 5 of the application.

#### V. Conclusion

In view of the foregoing remarks, Applicant respectfully submits that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Ke is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

Appl. No.: 09/502,627  
Amdt. dated August 14, 2007  
Reply to Office Action of May 25, 2007

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Gay R. Gosnell  
Registration No. 34,610

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON AUGUST 14, 2007.**